

JULIE CARNAHAN
Plaintiff

STERLING MEDICAL CORPORATION)
Defendant)

Magistrate Judge Susan Paradise Baxter

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deny Defendant's previously filed motion to dismiss. ECF No. 15. Plaintiff reads Foglia to apply only to False Claims Act claims brought in the context of *qui tam* actions, not, as here, to claims brought in a retaliation action.

Plaintiff also deduces from this Court's September 30th opinion that her pleading of the Original Complaint is sufficient to satisfy the more relaxed Rule 8(a) pleading standard. Plaintiff's supposition, in this regard, is incorrect. This Court did not rule that she has met the pleading requirements under Rule 8(a). Instead, the opinion laid out Plaintiff's allegations, cited the intervening Foglia decision, and, in the interests of fairness, concluded that because Plaintiff did not have the benefit of the Foglia decision at the time of the filing of the complaint, "she [would] be given an opportunity to amend her complaint if she believes that more specific pleading is necessary to comply with the heightened pleading requirement of Rule 9(b)." ECF No. 14, page 5. This Court has not ruled that the allegations of the original complaint meet the pleading requirements of Rule 8(a).

The choice here is Plaintiff's. In the event Plaintiff believes the Foglia decision is inapplicable to her retaliation claim, she may stand on her original complaint.

An appropriate Order follows.

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JULIE CARNAHAN,
Plaintiff,

v.

**STERLING MEDICAL CORPORATION,))
Defendant.)**

Civil Action No. 13-353 Erie

Magistrate Judge Susan Paradise Baxter

O R D E R

AND NOW, this 29th day of October, 2014;

IT IS HEREBY ORDERED that Plaintiff's motion for reconsideration [ECF No. 15] is DENIED. Plaintiff has until November 12, 2014 to file an Amended Complaint in light of the ruling in Foglia v. Renal Ventures Management, LLC, 754 F.3d 153 (3d Cir. 2014). In the event that Plaintiff believes Foglia has no application to this matter, she may stand on her original complaint. After November 12, 2014, this Court will issue a scheduling order.

/s/ Susan Paradise Baxter
SUSAN PARADISE BAXTER
United States Magistrate Judge